

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PETER LOUIS DYER,

Case No.: 3:19-cv-00609-MMD-WGC

Plaintiff

Report & Recommendation of United States Magistrate Judge

V.

Re: ECF No. 20

JERRY HOWELL, et. al.,

Defendants

This Report and Recommendation is made to the Honorable Miranda M. Du, United District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Before the court is Plaintiff's motion to dismiss this action. (ECF No. 20.)

Plaintiff is an inmate incarcerated within the Nevada Department of Corrections

(NDOC). He brought this pro se civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 5.)

15 The court screened his complaint and allowed him to proceed with a First Amendment retaliation
16 claim against Aviles and Howell. (ECF No. 4.) Defendants appeared and filed their answer on
17 April 27, 2021. (ECF No. 17.) On May 3, 2021, Plaintiff filed a motion to dismiss his complaint.
18 (ECF No. 20.) Defendants have filed a non-opposition. (ECF No. 21.)

¹ Dismissal of this action without prejudice is proper under Rule 41(a)(2).¹

¹ Plaintiff does not indicate he seeks dismissal with prejudice.

RECOMMENDATION

2 IT IS HEREBY RECOMMENDED that the District Judge enter an order **GRANTING**
3 Plaintiff's motion (ECF No. 20) and this action should be **DISMISSED WITHOUT**
4 **PREJUDICE**, and the case should be administratively closed.

5 The parties should be aware of the following:

6 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to
7 this Report and Recommendation within fourteen days of being served with a copy of the Report
8 and Recommendation. These objections should be titled “Objections to Magistrate Judge’s
9 Report and Recommendation” and should be accompanied by points and authorities for
10 consideration by the district judge.

11 2. That this Report and Recommendation is not an appealable order and that any notice of
12 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed
13 until entry of judgment by the district court.

15 | Dated: May 4, 2021

William G. Cobb